

REMARKS

This responds to the Office Action dated December 19, 2006. Claims 12, 27, 79, and 80 are amended. No claims are canceled or added; as a result, claims 7, 8, 10-42, 50-55, 58-63, 71-73, 79-81, 83 and 84 remain pending in this patent application.

Double Patenting Rejection

Claims 7, 8, 10-42, 50-55, 58-63, 71-73, 79-81, 83 and 84 were rejected under a non-statutory double patenting rejection, specifically over claims 1-38 of U.S. Patent No. 6,757,561.

Applicant respectfully notes that the present application was filed as a divisional application as a result of restriction during prosecution of the '561 parent patent. The Restriction Requirement, mailed on 7/2/2003 stated that the restriction was proper because the claims were "patentably distinct."

Applicant respectfully submits that the present claims therefore cannot be subject to an obviousness type double patenting rejection. See MPEP § 806.04(h) citing 35 USC §121. Reconsideration and withdrawal of the double patenting rejection are respectfully requested.

§102 Rejection of the Claims

Claim 27 was rejected under 35 U.S.C. § 102(b) for anticipation by Brink (U.S. Patent No. 5,725,560). Applicant respectfully submits that claim 27 is distinguishable over Brink for at least the following reasons.

Applicant cannot find in Brink any disclosure of a biphasic voltage waveform generator circuit where a positive phase waveform shape is independently selectable from a first set of wave form shapes, as presently recited in claim 27.

Because Brink does not show every element of Applicant's independent claims, a 35 USC §102(b) rejection is not supported. Reconsideration and withdrawal of the rejection are respectfully requested with respect to claim 27.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or

acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6951 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

LEO RUBIN ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6951

Date March 19, 2007

By 

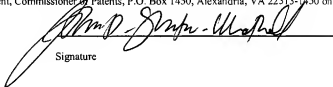
Suneel Arora

Reg. No. 42,267

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 19 day of March 2007.

John D. Gustafson-Wright

Name


Signature